

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THE STATE OF OHIO, ex rel. DAVE YOST,
OHIO ATTORNEY GENERAL,

and

THE UNITED STATES OF AMERICA,

Plaintiffs,

v.

NORFOLK SOUTHERN CORPORATION and
NORFOLK SOUTHERN RAILWAY COMPANY,

Defendants.

Civil Action No. 4:23CV517

4:23CV675

Hon. John R. Adams

NORFOLK SOUTHERN'S STATUS REPORT

Pursuant to this Court's April 15, 2024 Case Management Plan (Dkt. 131), Defendants Norfolk Southern Corporation and Norfolk Southern Railway Company ("Norfolk Southern") submit the following status report for the period from June 14, 2024, to July 15, 2024 ("the reporting period").

1. Discovery that has occurred during the reporting period:
 - a. Norfolk Southern delivered a first production of documents to the State of Ohio on June 14, 2024, and a second production on July 3, 2024.
 - b. No discovery has occurred between the United States and Norfolk Southern. The United States and Norfolk Southern jointly moved for a formal stay of discovery on June 14, 2024.
2. Settlement discussions that have occurred during the reporting period:
 - a. The State of Ohio and Norfolk Southern have engaged in discussions.

- b. On May 23, 2024, the United States filed a Notice of Lodging of Proposed Consent Decree (Dkt. 138) documenting the proposed settlement between the United States and Norfolk Southern. The Consent Decree was published in the Federal Register on May 30, 2024, commencing a 30-day public comment period. On June 6, 2024, the State of Ohio filed a Notice of Request for Extension of Comment Period (Dkt. 140), informing the Court that it had asked the United States to extend the public comment period for another 30 days to August 1, 2024. The United States has agreed and extended the comment period to August 2, 2024 (Dkt. 142).
3. Motions that have been filed or remain pending during the reporting period:
 - a. On March 26, 2024, Norfolk Southern filed a motion for entry of partial final judgment under Federal Rule of Civil Procedure 54(b) with respect to the dismissed claims brought in Norfolk Southern's Third-Party Complaint. Dkt. 121. Third-Party Defendant Trinity Industries Leasing Company, which was dismissed from this action pursuant to this Court's March 6, 2024 Order, Dkt. 113, filed an opposition to Norfolk Southern's motion for entry of partial final judgment on April 9, 2024, Dkt. 123. Norfolk Southern filed a reply in support of its motion on April 16, 2024. Dkt. 132. Norfolk Southern's motion is fully briefed and remains pending.
 - b. On June 14, 2024, the United States and Norfolk Southern jointly filed a motion to stay discovery in light of their pending settlement. Dkt. 143. This motion is fully briefed and remains pending.
4. Developments that might give rise to a request to deviate from the case management plan schedule: Norfolk Southern has no developments to report that would give rise to a request to deviate from the schedule delineated in the April 15, 2024 Case Management Plan (Dkt. 131).

Norfolk Southern will submit its next status report on August 14, 2024.

Date: July 15, 2024

Respectfully submitted,

/s/ Davina Pujari

Davina Pujari (admitted *pro hac vice*)

Chris Rheinheimer (admitted *pro hac vice*)

WILMER CUTLER PICKERING

HALE AND DORR LLP

One Front Street, Suite 3500

San Francisco, CA 94111

Tel.: (628) 235-1136

Fax: (628) 235-1001

davina.pujari@wilmerhale.com

chris.rheinheimer@wilmerhale.com

Edward O'Callaghan (admitted *pro hac vice*)

Alex Tucker Stewart (admitted *pro hac vice*)

WILMER CUTLER PICKERING

HALE AND DORR LLP

2100 Pennsylvania Avenue NW

Washington, DC 20036

Tel.: (202) 663-6956

Fax: (202) 663-6363

edward.o'callaghan@wilmerhale.com

alex.stewart@wilmerhale.com

Louis L. McMahon (0067378)

MCMAHON DEGULIS LLP

812 Huron Road, Suite 650

Cleveland, OH 44115

Tel.: (216) 367-1407

lmcmahon@mdlpl.net

Counsel for Defendants

Norfolk Southern Corporation and Norfolk

Southern Railway Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 15, 2024, I served a copy of the foregoing document by filing through the Court's CM/ECF system, which electronically notified all parties of record.

/s/ Davina Pujari
Davina Pujari (admitted *pro hac vice*)
WILMER CUTLER PICKERING
HALE AND DORR LLP
One Front Street, Suite 3500
San Francisco, CA 94111
Tel.: (628) 235-1136
Fax: (628) 235-1001
davina.pujari@wilmerhale.com